

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 305

Subject - *Motor Vehicle Standards Act 1989*
Motor Vehicle Standards Amendment Regulation 2012 (No. 1)

The *Motor Vehicle Standards Act 1989* (the Act) establishes a regulatory framework to ensure uniform vehicle standards apply to new vehicles when they begin to be used in transport in Australia, and to regulate the first supply to the market of used imported vehicles. Administering the Act requires a decision to be made on each application received for new vehicles and imported used vehicles proposed for use in Australia.

Section 42 of the Act provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

Under the Act the Minister may delegate to the Administrator or to an Associate Administrator, all or any of the Minister's functions or powers under the Act, other than eight specified exemptions. However, conflictingly, the *Motor Vehicle Standards Regulations 1989* (the Regulations) stipulate that the Minister may only delegate his powers to the Administrator or to a SES employee in the Department.

As a result of the requirement for an Associate Administrator to be a SES officer, all powers delegated under the Regulations reside with the individual appointed as the Administrator. Associate Administrators able to be appointed under the Act are unable to hold a range of operationally specific powers under the Regulations which would otherwise enable the Department to provide a better service to the public and vehicle manufacturers.

The requirement for Minister's functions and powers under the Regulations to only be delegated to a SES employee in the Department has remained unchanged since 1989 when the decisions required to be made by the Administrator were significantly less in complexity and volume. This results in the single Administrator having to deal with every application for approval (in excess of 30,000 annually), regardless of the level of complexity, sensitivity or risk attached.

The Regulation amends the Principle regulations and provides that the Minister may delegate all or any of the Minister's powers under the Regulations to the Administrator or to an Associate Administrator. This will enable Associate Administrators to make decisions concerning operationally routine approvals, thereby freeing the Administrator to deal with complex and sensitive matters involving significant risk and requiring the greatest time and effort, and also enable the Department to provide a better service to the public and vehicle manufacturers.

The Secretary will appoint experienced and qualified Executive Level 2 or SES officers as Associate Administrators and the appointments will require strong personal accountability by the officers. To ensure the highest standards of decision-making, the Secretary will establish those matters that each Associate Administrator may deal with, and those matters that must be escalated to the Administrator.

The Department will undertake regular review of these governance arrangements to build in flexibility and to ensure consistency of decision-making, giving consideration to among other things:

- the experience and qualifications of an Associate Administrator;
- consistency in decision-making;
- developments in domestic and international motor vehicle standards administration;
- critical and high priority matters from time-to-time.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The amendments are administrative in nature and there was no need to consult with industry participants. Accordingly, the Office of Best Practice Regulation was consulted and granted an exemption from Regulation Impact Statement for the amendments.

Name of Regulation

The title of the Regulation is the Motor Vehicle Standards Amendment Regulation 2012 (No. 1).

Commencement

This Regulation provides for the Regulations to commence on the day after they are registered.

Amendment of Motor Vehicle Standards Regulations 1989

The Motor Vehicle Standards Regulations 1989 are amended as set out in the Schedule.

Schedule – Amendments

Item [1] – Regulation 62

Item [1] repeals and replaces current regulation 62 of the Motor Vehicle Standards Regulations 1989 and creates that the Minister may by signed instrument delegate to the Administrator, or to an Associate Administrator, all or any of the Minister's functions and powers under the Regulations.

The effect of Item [1] is to replace *SES employee in the Department* with *Associate Administrator*.

Authority: Section 42 of the *Motor Vehicle Standards Act 1989*